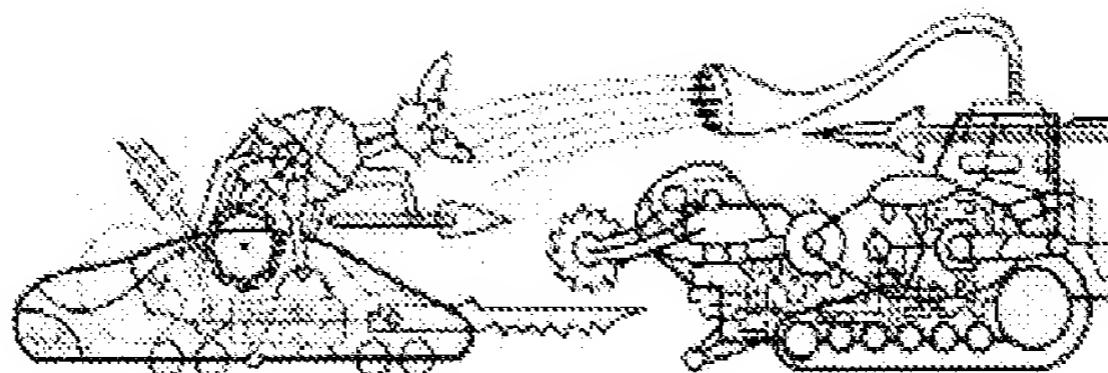


Patent wars

By Tim Davison

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Better get yourself armed. Everybody else is

IN THE late 19th century, patents were the stuff of popular myth. Thomas Edison, dubbed the wizard of Menlo Park, was a folk hero. Crowds mobbed his laboratory to see his inventions. Robber barons fought for control of his patents, and court battles over them fascinated the public.

Intellectual property does not grip the public imagination in quite the same way today, yet something similar to those great patent wars seems to be happening. The pace of patenting is accelerating. Business is heading for the courts again. And criticism of the recent award of patents on wide areas of Internet business is growing. Academics and Internet activists are concerned that the government is turning the Internet over to private monopolies. Patents are becoming political once more.

The number of patents being issued in America (see chart 1) is running at nearly twice the level of a decade ago. In Europe, the growth has been slower, and patents are anyway harder to get. Europe's patent offices tend to work more slowly, partly because the law requires them to take more trouble rooting out opposition to the granting of a patent. But what happens in America still matters more to the rest of the world.

Patents are global: although an American patent does not function outside America, if an idea has been patented in America, the same idea cannot (in theory at least) be patented anywhere else. Only the person who holds the patent for the left-handed non-reciprocal screw in America can apply for that patent in Italy, Brazil or Japan. What is more, the world's patenting systems are slowly coming together: through a new international patent system organised by the United Nations World Intellectual Property Organisation, through the World Trade Organisation, and through growing demand from inventors for patents that work throughout the world.

Part of the reason for America's patenting boom lies in government. After the great patent wars of the last century, trustbusting governments came to regard them as tools of monopolists, not as incentives to

The new monopolies

